

Exhibit F

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Attorneys for NonParty
MARKMONITOR, INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

SONY MUSIC ENTERTAINMENT, et al.	)	CASE NO. 18-CV-00950-LO-JFA
)	
Plaintiffs,	)	NONPARTY MARKMONITOR,
	)	INC.'S OBJECTIONS AND
vs.	)	RESPONSES TO SUBPOENA TO
	)	PRODUCE DOCUMENTS BY
COX COMMUNICATIONS, INC. and	)	DEFENDANTS COX
COXCOM LLC,	)	COMMUNICATIONS, INC. AND
	)	COXCOM LLC
Defendants.)	
)	

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE BE ADVISED that Nonparty MARKMONITOR, INC. ("MMI" or "Responding Non Party") submits the following written objections and responses to the subpoena to produce documents from Defendants Cox Communications, Inc. and CoxCom LLC, pursuant to Federal Rule of Civil Procedure ("FRCP") 45.

GENERAL OBJECTIONS

1. MMI objects to the subpoena on the grounds that the proposed production date, time and location create an undue burden and expense.

2. The subpoena is also objectionable in that the scope of the document requests, as set forth below are vague, ambiguous, and overbroad, and compliance would be unduly burdensome, time consuming, expensive, and harassing.

3. MMI also objects on the grounds that the categories of document requests seek

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1 information protected from disclosure under the attorney-client privilege and/or work product
2 doctrine.

3 4. The subpoena is also objectionable on the grounds that it seeks proprietary, trade
4 secret and other confidential information, and the actual or potential harm and damages that may
5 and/or would likely result from the production or inspection of such information from this
6 nonparty is irreparable and not adequately addressed or safeguarded by the protective order
7 presently in place in this matter.

8 5. In addition to privilege, the broad scope of the document requests is not relevant
9 to any party's claims or defenses, nor is the scope of the subpoena reasonably calculated to lead
10 to the discovery of admissible evidence in this action.

11 6. Finally, information sought by the subpoena, including any non-privileged
12 documents that are responsive to the various document requests, is already within the
13 subpoenaing party's possession, custody, or control – or is equally available from other sources.

14 7. These objections are made without prejudice to MMI's supplement or amend
15 these objections in the event that any information may have been omitted by oversight,
16 inadvertence, or good faith error or mistake.

17 8. Except for the facts explicitly stated herein, no incidental or implied admissions
18 are intended.

19 9. These objections are signed by counsel only as to the objections set forth in the
20 responses, and MMI expressly reserves:

21 8.1 All objections regarding the competency, relevance, materiality, probative
22 value and admissibility of all information provided, documents produced and the contents
23 thereof;

24 8.2 All objections as to vagueness, ambiguity, unintelligibility and
25 overbreadth.

26 10. Nothing herein shall be construed as an admission regarding the admissibility or
27 relevance of any fact or document or of the truth or accuracy of any characterization contained in
28 the document requests.

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11. The fact that part or all of any request has been answered should not be construed to be a waiver of any objection to any discovery request.

12. MMI responds to the areas of examination and document requests subject to the foregoing, and each of the foregoing statements and objections is incorporated by reference into each of the following responses:

RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All Documents and Communications concerning any agreement between You and any Plaintiff(s).

Response to Request No. 1:

Objection. The request and the defined and undefined terms and phrases “You,” “Documents,” “Communications,” “concerning” and “agreement” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary, trade secret and other confidential information. The request further seeks information that may not be within this party’s possession, custody, or control and/or which is equally available to propounding party from other sources.

Without waiving and subject to said objections, this Responding Non Party states: MMI will produce (or make available for inspection and copying) all relevant and non-privileged documents, to the extent they exist, in its possession, custody or control, that are responsive to a reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a subsequent agreed upon date (subject to the Court’s approval, if necessary).

2. All Documents and Communications concerning any agreement between YOU and the RIAA.

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Response to Request No. 2:

Objection. The request and the defined and undefined terms and phrases “You,” “Documents,” “Communications,” “concerning” and “agreement” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary, trade secret and other confidential information. The request further seeks information that may not be within this party’s possession, custody, or control and/or which is equally available to propounding party from other sources.

Without waiving and subject to said objections, this Responding Non Party states: MMI will produce (or make available for inspection and copying) all relevant and non-privileged documents, to the extent they exist, in its possession, custody or control, that are responsive to a reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a subsequent agreed upon date (subject to the Court’s approval, if necessary).

3. All Documents concerning any financial interest, whether actual or contingent, You have in any of the Plaintiffs or their copyrights.

Response to Request No. 3:

Objection. The request and the defined and undefined terms and phrases “Documents,” “concerning,” “financial interest, whether actual or contingent,” and “You” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney

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1 work product doctrine. As phrased, the request also seeks proprietary, trade secret and other
2 confidential information. The request further seeks information that may not be within this
3 party's possession, custody, or control and/or which is equally available to propounding party
4 from other sources.

5 Without waiving and subject to said objections, this Responding Non Party states: MMI
6 does not have a "financial interest" as described herein, and, as such, is unaware of and does not
7 possess any documents that would be responsive to this request.

8 4. All Documents concerning any financial interest, whether actual or contingent,
9 You have in an actual or potential recovery by any Plaintiff or group of Plaintiffs in this
10 litigation.

11 Response to Request No. 4:

12 Objection. The request and the defined and undefined terms and phrases "Documents,"
13 "concerning," "financial interest, whether actual or contingent," "You," and "actual or potential
14 recovery by any Plaintiff or group of Plaintiffs" are vague, ambiguous, and subject to varying
15 interpretations. The scope is also overbroad and compliance would be unduly burdensome, time
16 consuming and expensive. Further, the scope of the request seeks information that is not
17 "relevant to any party's claim or defense and proportional to the needs of the case" within the
18 meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected
19 from disclosure under the attorney-client privilege and/or attorney work product doctrine. As
20 phrased, the request also seeks proprietary, trade secret and other confidential information. The
21 request further seeks information that may not be within this party's possession, custody, or
22 control and/or which is equally available to propounding party from other sources.

23 Without waiving and subject to said objections, this Responding Non Party states: MMI
24 does not have a "financial interest" as described herein, and, as such, is unaware of and does not
25 possess any documents that would be responsive to this request.

26 5. All Documents concerning any ownership interest that the RIAA or any Plaintiff
27 has in You or any of Your affiliated, parent, or subsidiary companies.
28

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Response to Request No.5:

Objection. The request and the defined and undefined terms and phrases “Documents,” “concerning,” “ownership interest,” “RIAA,” “You,” and “Your” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary, trade secret and other confidential information. The request further seeks information that may not be within this party’s possession, custody, or control and/or which is equally available to propounding party from other sources.

Without waiving and subject to said objections, this Responding Non Party states: MMI does not have an “ownership interest” as described herein, and, as such, is unaware of and does not possess any documents that would be responsive to this request.

6. All Communications between You and any of Cox’s subscribers, account holders, or customers.

Response to Request No.6:

Objection. The request and the defined and undefined terms and phrases “Communications,” “You,” and “subscribers, account holders, or customers” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary, trade secret and other confidential information. The request further seeks information that may not be within this party’s possession, custody, or control and/or which is equally available to propounding party

1 from other sources.

2 Without waiving and subject to said objections, this Responding Non Party states: MMI
3 will produce (or make available for inspection and copying) all relevant and non-privileged
4 documents, to the extent they exist, in its possession, custody or control, that are responsive to a
5 reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a
6 mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a
7 subsequent agreed upon date (subject to the Court's approval, if necessary).

8 7. All Documents concerning any presentation, solicitation, or proposal to the RIAA
9 and/or Plaintiffs regarding Your System.

10 Response to Request No. 7:

11 Objection. The request and the defined and undefined terms and phrases "Documents,"
12 "concerning," "presentation, solicitation, or proposal," "RIAA," and/ "Your System" are vague,
13 ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance
14 would be unduly burdensome, time consuming and expensive. Further, the scope of the request
15 seeks information that is not "relevant to any party's claim or defense and proportional to the
16 needs of the case" within the meaning of FRCP 26(b)(1). In addition, the scope of the request
17 seeks information protected from disclosure under the attorney-client privilege and/or attorney
18 work product doctrine. As phrased, the request also seeks proprietary, trade secret and other
19 confidential information. The request further seeks information that may not be within this
20 party's possession, custody, or control and/or which is equally available to propounding party
21 from other sources.

22 Without waiving and subject to said objections, this Responding Non Party states: MMI
23 will produce (or make available for inspection and copying) all relevant and non-privileged
24 documents, to the extent they exist, in its possession, custody or control, that are responsive to a
25 reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a
26 mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a
27 subsequent agreed upon date (subject to the Court's approval, if necessary).

28 8. Any databases, indices, or other repositories of information concerning notices of

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1 claimed infringement that were created with Your System and that were sent to Cox or any of
2 Cox's subscribers, account holders, or customers in connection with alleged infringement of the
3 Copyright Works.

4 Response to Request No. 8:

5 Objection. The request and the defined and undefined terms and phrases "databases,
6 indices, or other repositories of information," "concerning," "created," "Your System,"
7 "subscribers, account holders, or customers," and "in connection with" are vague, ambiguous,
8 and subject to varying interpretations. The scope is also overbroad and compliance would be
9 unduly burdensome, time consuming and expensive. Further, the scope of the request seeks
10 information that is not "relevant to any party's claim or defense and proportional to the needs of
11 the case" within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks
12 information protected from disclosure under the attorney-client privilege and/or attorney work
13 product doctrine. As phrased, the request also seeks proprietary, trade secret and other
14 confidential information. The request further seeks information that may not be within this
15 party's possession, custody, or control and/or which is equally available to propounding party
16 from other sources.

17 Without waiving and subject to said objections, this Responding Non Party states: MMI
18 will produce (or make available for inspection and copying) all relevant and non-privileged
19 documents, to the extent they exist, in its possession, custody or control, that are responsive to a
20 reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a
21 mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a
22 subsequent agreed upon date (subject to the Court's approval, if necessary).

23 9. Any databases, indices, or other repositories of information concerning the
24 identification of a Cox IP address in connection with alleged infringement of the Copyright
25 Works.

26 Response to Request No. 9:

27 Objection. The request and the defined and undefined terms and phrases "databases,
28 indices, or other repositories of information," "concerning," "a Cox IP address" and "in

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connection with” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary, trade secret and other confidential information. The request further seeks information that may not be within this party’s possession, custody, or control and/or which is equally available to propounding party from other sources.

Without waiving and subject to said objections, this Responding Non Party states: MMI will produce (or make available for inspection and copying) all relevant and non-privileged documents, to the extent they exist, in its possession, custody or control, that are responsive to a reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a subsequent agreed upon date (subject to the Court’s approval, if necessary).

10. All copies of files, or portions or derivatives thereof (including any hashes or checksums of files or portions of files), concerning the Copyright Works, that You downloaded or caused to be downloaded from a Cox subscriber, account holder, or customer.

Response to Request No. 10:

Objection. The request and the defined and undefined terms and phrases “files, or portions or derivatives thereof (including any hashes or checksums of files or portions of files),” “concerning,” “You,” “downloaded or caused to be downloaded,” and “subscriber, account holder, or customer” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product doctrine. As phrased, the request also seeks

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1 proprietary, trade secret and other confidential information. The request further seeks
2 information that may not be within this party's possession, custody, or control and/or which is
3 equally available to propounding party from other sources.

4 Without waiving and subject to said objections, this Responding Non Party states: MMI
5 will produce (or make available for inspection and copying) all relevant and non-privileged
6 documents, to the extent they exist, in its possession, custody or control, that are responsive to a
7 reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a
8 mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a
9 subsequent agreed upon date (subject to the Court's approval, if necessary).

10 11. All Documents concerning any files, or portions thereof, concerning the
11 Copyright Works, that You downloaded from a Cox subscriber, account holder, or customer.

12 Response to Request No. 11:

13 Objection. The request and defined terms and phrases "Documents," "concerning,"
14 "files, or portions thereof," "You," "downloaded," and "subscriber, account holder, or customer"
15 are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and
16 compliance would be unduly burdensome, time consuming and expensive. Further, the scope of
17 the request seeks information that is not "relevant to any party's claim or defense and
18 proportional to the needs of the case" within the meaning of FRCP 26(b)(1). In addition, the
19 scope of the request seeks information protected from disclosure under the attorney-client
20 privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary,
21 trade secret and other confidential information. The request further seeks information that may
22 not be within this party's possession, custody, or control and/or which is equally available to
23 propounding party from other sources.

24 Without waiving and subject to said objections, this Responding Non Party states: MMI
25 will produce (or make available for inspection and copying) all relevant and non-privileged
26 documents, to the extent they exist, in its possession, custody or control, that are responsive to a
27 reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a
28 mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a

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1 subsequent agreed upon date (subject to the Court's approval, if necessary).

2 12. One copy of each version of Your System that was in use during Plaintiffs' Claim
3 Period, including all versions of the source code for each, that was used to monitor and/or detect
4 copyright infringement, generate copyright infringement notices, or send copyright infringement
5 notices.

6 Response to Request No. 12:

7 Objection. The request and defined terms and phrases "version," "Your System," "in
8 use," "during Plaintiffs' Claim Period," "source code," "used to monitor and/or detect,"
9 "generate," "notices," and "send" are vague, ambiguous, and subject to varying interpretations.
10 The scope is also overbroad and compliance would be unduly burdensome, time consuming and
11 expensive. Further, the scope of the request seeks information that is not "relevant to any party's
12 claim or defense and proportional to the needs of the case" within the meaning of FRCP
13 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under
14 the attorney-client privilege and/or attorney work product doctrine. The request is also
15 objectionable on the grounds that it seeks proprietary, trade secret and other confidential
16 information, and the actual or potential harm and damages that may and/or would likely result
17 from the production or inspection of such information from this nonparty is irreparable and not
18 adequately addressed or safeguarded by the protective order presently in place in this matter.

19 13. All Documents concerning the revision history of Your System and the associated
20 source code.

21 Response to Request No. 13:

22 Objection. The request and defined terms and phrases "revision history," "Your
23 System," and "associated source code" are vague, ambiguous, and subject to varying
24 interpretations. The scope is also overbroad and compliance would be unduly burdensome, time
25 consuming and expensive. Further, the scope of the request seeks information that is not
26 "relevant to any party's claim or defense and proportional to the needs of the case" within the
27 meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected
28 from disclosure under the attorney-client privilege and/or attorney work product doctrine. The

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1 request is also objectionable on the grounds that it seeks proprietary, trade secret and other
2 confidential information, and the actual or potential harm and damages that may and/or would
3 likely result from the production or inspection of such information from this nonparty is
4 irreparable and not adequately addressed or safeguarded by the protective order presently in
5 place in this matter.

6 14. All guidelines, manuals, and other documents concerning the operation of Your
7 System.

8 Response to Request No. 14:

9 Objection. The request and the defined and undefined terms and phrases “guidelines,
10 manuals, and other documents,” “concerning,” and “operation of Your System” are vague,
11 ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance
12 would be unduly burdensome, time consuming and expensive. Further, the scope of the request
13 seeks information that is not “relevant to any party’s claim or defense and proportional to the
14 needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request
15 seeks information protected from disclosure under the attorney-client privilege and/or attorney
16 work product doctrine. As phrased, the request also seeks proprietary, trade secret and other
17 confidential information. The request further seeks information that may not be within this
18 party’s possession, custody, or control and/or which is equally available to propounding party
19 from other sources.

20 Without waiving and subject to said objections, this Responding Non Party states: MMI
21 does not believe any such documents exist, but will produce (or make available for inspection
22 and copying) all relevant and non-privileged documents, to the extent they do exist, in its
23 possession, custody or control, that are responsive to a reasonable interpretation of this request
24 and within the permissible scope of FRCP 26(b)(1), at a mutually agreeable date, time and
25 location prior to the fact discovery completion deadline, or at a subsequent agreed upon date
26 (subject to the Court’s approval, if necessary).

27 15. All Communications between You and the RIAA concerning Your Systems.
28

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Response to Request No. 15:

Objection. The request and the defined and undefined terms and phrases “Communications,” “You,” “RIAA,” and “Your System” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary, trade secret and other confidential information. The request further seeks information that may not be within this party’s possession, custody, or control and/or which is equally available to propounding party from other sources.

Without waiving and subject to said objections, this Responding Non Party states: MMI will produce (or make available for inspection and copying) all relevant and non-privileged documents, to the extent they exist, in its possession, custody or control, that are responsive to a reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a subsequent agreed upon date (subject to the Court’s approval, if necessary).

16. All Communications between You and any Plaintiff or group of Plaintiffs concerning Your System.

Response to Request No. 16:

Objection. The request and the defined and undefined terms and phrases “Communications,” “You,” “concerning,” and “Your System” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product

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doctrines. As phrased, the request also seeks proprietary, trade secret and other confidential information. The request further seeks information that may not be within this party's possession, custody, or control and/or which is equally available to propounding party from other sources.

Without waiving and subject to said objections, this Responding Non Party states: MMI will produce (or make available for inspection and copying) all relevant and non-privileged documents, to the extent they exist, in its possession, custody or control, that are responsive to a reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a subsequent agreed upon date (subject to the Court's approval, if necessary).

17. All Communications between You and Stroz Friedberg concerning Your System.

Response to Request No. 17:

Objection. The request and the defined and undefined terms and phrases "Communications," "You," "Stroz Friedberg," "concerning," and "Your System" are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not "relevant to any party's claim or defense and proportional to the needs of the case" within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary, trade secret and other confidential information. The request further seeks information that may not be within this party's possession, custody, or control and/or which is equally available to propounding party from other sources.

Without waiving and subject to said objections, this Responding Non Party states: MMI does not believe it possesses any documents that are "relevant to any party's claim or defense and proportional to the needs of the case," but will produce (or make available for inspection and copying) all relevant and non-privileged documents, to the extent they exist, in its possession, custody or control, that are responsive to a reasonable interpretation of this request and within

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1 the permissible scope of FRCP 26(b)(1), at a mutually agreeable date, time and location prior to
2 the fact discovery completion deadline, or at a subsequent agreed upon date (subject to the
3 Court's approval, if necessary).

4 18. All Communications between You and Harbor Labs concerning Your System.

5 Response to Request No. 18:

6 Objection. The request and the defined and undefined terms and phrases
7 "Communications," "You," "Harbor Labs," "concerning," and "Your System" are vague,
8 ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance
9 would be unduly burdensome, time consuming and expensive. Further, the scope of the request
10 seeks information that is not "relevant to any party's claim or defense and proportional to the
11 needs of the case" within the meaning of FRCP 26(b)(1). In addition, the scope of the request
12 seeks information protected from disclosure under the attorney-client privilege and/or attorney
13 work product doctrine. As phrased, the request also seeks proprietary, trade secret and other
14 confidential information. The request further seeks information that may not be within this
15 party's possession, custody, or control and/or which is equally available to propounding party
16 from other sources.

17 Without waiving and subject to said objections, this Responding Non Party states: MMI
18 does not believe it possesses any documents that are "relevant to any party's claim or defense
19 and proportional to the needs of the case," but will produce (or make available for inspection and
20 copying) all relevant and non-privileged documents, to the extent they exist, in its possession,
21 custody or control, that are responsive to a reasonable interpretation of this request and within
22 the permissible scope of FRCP 26(b)(1), at a mutually agreeable date, time and location prior to
23 the fact discovery completion deadline, or at a subsequent agreed upon date (subject to the
24 Court's approval, if necessary).

25 19. All Documents and Communications concerning the efficacy of Your System
26 including its flaws, weaknesses, the need for potential improvements, and any proposed and/or
27 implemented remediation of any such flaws or weaknesses.

28

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Response to Request No. 19:

Objection. The request and the defined and undefined terms and phrases “Documents,” “Communications,” “concerning,” “efficacy,” “Your System,” “flaws, weaknesses, the need for potential improvements,” and “proposed and/or implemented remediation” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary, trade secret and other confidential information. The request further seeks information that may not be within this party’s possession, custody, or control and/or which is equally available to propounding party from other sources.

Without waiving and subject to said objections, this Responding Non Party states: MMI does not believe it possesses any documents that are “relevant to any party’s claim or defense and proportional to the needs of the case,” but will produce (or make available for inspection and copying) all relevant and non-privileged documents, to the extent they exist, in its possession, custody or control, that are responsive to a reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a subsequent agreed upon date (subject to the Court’s approval, if necessary)..

20. All Documents concerning CAS or any proposed inter-industry agreement concerning the handling of notice of copyright infringement.

Response to Request No. 20:

Objection. The request and the defined and undefined terms and phrases “Documents,” “concerning,” “CAS or any proposed inter-industry agreement,” and “the handling of notice of copyright infringement” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive.

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Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary, trade secret and other confidential information. The request further seeks information that may not be within this party’s possession, custody, or control and/or which is equally available to propounding party from other sources.

Without waiving and subject to said objections, this Responding Non Party states: MMI will produce (or make available for inspection and copying) all relevant and non-privileged documents, to the extent they exist, in its possession, custody or control, that are responsive to a reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a subsequent agreed upon date (subject to the Court’s approval, if necessary).

21. All Documents or Communications, whether internal or with third parties, concerning any limit on the number of copyright infringement notices accepted by any ISP.

Response to Request No. 21:

Objection. The request and the defined and undefined terms and phrases “Documents,” “Communications,” “concerning,” “limit,” and “accepted by any ISP” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary, trade secret and other confidential information. The request further seeks information that may not be within this party’s possession, custody, or control and/or which is equally available to propounding party from other sources.

Without waiving and subject to said objections, this Responding Non Party states: MMI

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1 will produce (or make available for inspection and copying) all relevant and non-privileged
2 documents, to the extent they exist, in its possession, custody or control, that are responsive to a
3 reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a
4 mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a
5 subsequent agreed upon date (subject to the Court's approval, if necessary).

6 22. All Communications with or concerning Cox or any Cox subscriber, account
7 holder, or customer relating to alleged copyright infringement.

8 Response to Request No. 22:

9 Objection. The request and the defined and undefined terms and phrases
10 "Communications," "concerning," "subscriber, account holder, or customer," and "relating to"
11 are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and
12 compliance would be unduly burdensome, time consuming and expensive. Further, the scope of
13 the request seeks information that is not "relevant to any party's claim or defense and
14 proportional to the needs of the case" within the meaning of FRCP 26(b)(1). In addition, the
15 scope of the request seeks information protected from disclosure under the attorney-client
16 privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary,
17 trade secret and other confidential information. The request further seeks information that may
18 not be within this party's possession, custody, or control and/or which is equally available to
19 propounding party from other sources.

20 Without waiving and subject to said objections, this Responding Non Party states: MMI
21 will produce (or make available for inspection and copying) all relevant and non-privileged
22 documents, to the extent they exist, in its possession, custody or control, that are responsive to a
23 reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a
24 mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a
25 subsequent agreed upon date (subject to the Court's approval, if necessary).

26 23. All Documents constituting, comprising, or evidencing Your software revision
27 policies, including any policies that explain how revisions are made to software, where prior
28 versions are stored, and how revisions are to be documented.

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Response to Request No. 23:

Objection. The request and the defined and undefined terms and phrases “Documents constituting, comprising, or evidencing,” “Your,” “software revision policies,” prior versions,” “stored,” and “documented” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected from disclosure under the attorney-client privilege and/or attorney work product doctrine. As phrased, the request also seeks proprietary, trade secret and other confidential information. The request further seeks information that may not be within this party’s possession, custody, or control and/or which is equally available to propounding party from other sources.

Without waiving and subject to said objections, this Responding Non Party states: MMI will produce (or make available for inspection and copying) all relevant and non-privileged documents, to the extent they exist, in its possession, custody or control, that are responsive to a reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a subsequent agreed upon date (subject to the Court’s approval, if necessary).

24. All Documents constituting, comprising, or evidencing Your policies for document management, preservation, storage, indexing, and disposal.

Response to Request No. 24:

Objection. The request and the defined and undefined terms and phrases “Documents constituting, comprising, or evidencing,” “Your,” and “policies for document management, preservation, storage, indexing, and disposal” are vague, ambiguous, and subject to varying interpretations. The scope is also overbroad and compliance would be unduly burdensome, time consuming and expensive. Further, the scope of the request seeks information that is not “relevant to any party’s claim or defense and proportional to the needs of the case” within the meaning of FRCP 26(b)(1). In addition, the scope of the request seeks information protected

1 from disclosure under the attorney-client privilege and/or attorney work product doctrine. As
 2 phrased, the request also seeks proprietary, trade secret and other confidential information. The
 3 request further seeks information that may not be within this party's possession, custody, or
 4 control and/or which is equally available to propounding party from other sources.

5 Without waiving and subject to said objections, this Responding Non Party states: MMI
 6 will produce (or make available for inspection and copying) all relevant and non-privileged
 7 documents, to the extent they exist, in its possession, custody or control, that are responsive to a
 8 reasonable interpretation of this request and within the permissible scope of FRCP 26(b)(1), at a
 9 mutually agreeable date, time and location prior to the fact discovery completion deadline, or at a
 10 subsequent agreed upon date (subject to the Court's approval, if necessary).

11 Dated: February 14, 2019

GORDON REES SCULLY MANSUKHANI, LLP



By: _____

Andrew D. Castricone
 Attorneys for Nonparty
 MARKMONITOR, INC.

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Attorneys for NonParty
 MARKMONITOR, INC.

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF VIRGINIA

SONY MUSIC ENTERTAINMENT, et al.	)	CASE NO. 18-CV-00950-LO-JFA
)	
Plaintiffs,	)	<u>CERTIFICATE OF SERVICE OF:</u>
	)	Nonparty MarkMonitor, Inc.'s Objections
vs.	)	and Responses to Subpoena By Cox
	)	Defendants
COX COMMUNICATIONS, INC. and)	
COXCOM LLC,)	
)	
Defendants.)	

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is: Gordon Rees Scully Mansukhani, LLP, 275 Battery Street, Suite 2000, San Francisco, CA 94111.

On February 14, 2018 I served the document listed below:

**NONPARTY MARKMONITOR, INC.'S OBJECTIONS AND RESPONSES TO
 SUBPOENA TO PRODUCE DOCUMENTS BY DEFENDANTS COX
 COMMUNICATIONS, INC. AND COXCOM LLC**

by placing the document listed above in sealed envelopes with postage thereon fully prepaid, in United States mail in the State of California at San Francisco, addressed as set forth below.

Counsel for Plaintiffs

Matthew J. Oppenheim
 Scott A. Zebrak
 Jeff Gould
 OPPENHEIM + ZEBRAK, LLP
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Counsel for Defendants Cox

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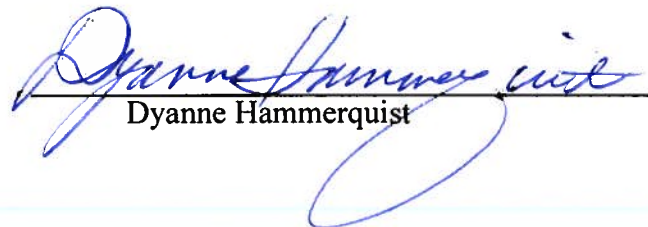
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<p>Tel: 202-480-2999; Fax: 866-766-1678 Emails: matt@oandzlaw.com; scott@oandzlaw.com; jeff@oandzlaw.com</p>	<p>Email: tbuchanan@winston.com</p>
<p><u>Of Counsel for Defendants Cox Communications, Inc. and CoxCom LLC</u> Diana Hughes Leiden WINSTON & STRAWN LLP 333 S. Grand Ave., Fl. 38 Los Angeles, CA 90071 Tel: (213) 615-1700; Fax: 213-615-1750 dhleiden@winston.com</p>	<p><u>Of Counsel for Defendants Cox Communications, Inc. and CoxCom LLC</u> Michael S. Elkin Thomas Patrick Lane WINSTON & STRAWN LLP 200 Park Avenue New York, NY 10166 Tel: (212) 294-6700; Fax: 294-4700 Email: melkin@winston.com tlane@winston.com</p>
<p><u>Of Counsel for Defendants Cox Communications, Inc. and CoxCom LLC</u> Jennifer A. Golinveaux WINSTON & STRAWN LLP 101 California St., 35th Fl. San Francisco, CA 94111 Tel: (415) 591-1000; Fax: 591-1400 Email: jgolinveaux@winston.com</p>	

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service and FedEx on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct. Executed on February 14, 2019, at San Francisco, California.


Dyanne Hammerquist